(*Schedule*)

SCHEDULE.

(*See* SECTION 2.)

Enactment.	*Subject.*	*Extent of repeal.*
Act XIX of 1852.	For better securing the abkari revenue of the town and suburbs of Madras.	The whole so far as it has not already been repealed.
Act III of 1856.	An Act to amend Act XIX of 1852.	The whole.
[1]Act XVI of 1863.	The Excise (Spirits) Act, 1863.	So much as has not been repealed.
[2][* * * *]		
[2][* * * *]		
[1] Act VIII of 1894.	The Indian Tariff Act, 1894.	Section 6.

MADRAS ACT No. IV OF 1886.[3]

[THE RAILWAY PROTECTION ACT, 1886.]

[*9th April 1886* ; *31st June 1886*.]

An Act to provide for the prevention of injury to Railways from the escape or overflow of water from irrigation-works situated upon the lands of zamindars or other landholders.

WHEREAS it is expedient to provide for the prevention of injury to lines of railway from the escape and overflow of water from rivers, tanks, channels or irrigation-works situated upon the lands of landholders; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Railway Protection Act, 1886. Short title.

[4] [It extends to the whole of the State of Madras.] Local extent.

2. In this Act—

the term "landholders" shall be taken to include all persons holding under a sanad-i-milkiyat-i-istimrar, all other "Landholders."

---

[1] These items were inserted by section 23 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The entries relating to Madras Acts III of 1864 and V of 1879 have been omitted as these Acts have been repealed.

[3] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 9th October 1885, p. 3 ; for Report of the Select Committee, *see ibid*, dated 23rd December 1885, p. 1 ; for Proceedings in Council, *see ibid*, dated 21st August 1885, p. 11 ; *ibid*, dated 23rd October 1885, p. 19 and *ibid*, dated 7th April 1886, p. 2.

The Act came into force on 1st September 1886—*see Fort St. George Gazette*, 1886, Part I, p. 692.

[4] These words were substituted for the words " It extends to the territories administered by the Governor in Council of *Fort St. George* " by section 3 of, and the Second Schedule to, the Repealing and Amending Act, 1950 (Central Act XXXV of 1950).

zamindars, shrotriemdars, jagirdars, inamdars and all persons farming the land-revenue under Government, but shall not include holders of lands under raiyatwari settlement :

"Railway." "railway" means a railway for the public conveyance of passengers or goods :

it includes—

(*a*) all land within the fences or other boundary marks prescribed under section 52, Act IV of 1879[1] (India) ;

(*b*) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a railway ;

(*c*) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a railway ;

"irrigation-works." "irrigation-works" means and includes tanks, river-channels, embankments, sluices, weirs, revetments and other works of a like description situated upon the lands of land-holders.

[2][ ].

Collector of the district may inspect irrigation-works.

3. The Collector of the district or any officer appointed by him on that behalf may at any time enter upon the lands of any landholder and inspect, or cause to be inspected, any irrigation-works which shall be so situated within such lands that any railway may appear liable to be injured from the escape or overflow of water therefrom.

When Collector considers measures should be taken to protect a railway he shall cause plans and estimates of the necessary measures to be prepared.

4. Whenever it shall appear necessary to the Collector that measures should be taken in respect of any irrigation-work for the protection of any railway, he shall cause to be prepared plans and estimates specifying the measures which, having regard to the safety of the railway and the interests of the landholders, tenants and other persons concerned, he may think necessary, and he shall also record a statement showing with reasons how far, in his opinion, the landholder in possession of, or having control over, the said works is liable to contribute towards the expenses to be incurred in carrying out the said measures. Such statement shall contain—

(1) a description of the works upon which the measures are to be executed ;

(2) the name of any landholder who, to the best of the Collector's information and belief, is in possession of, or has control over, such works ;

(3) the proportion, if any, of the estimated expenditure which is to be borne by the landholder.

The Collector shall cause copies of a vernacular translation of such statement to be fixed in some conspicuous place or places in the village or villages to which the said works belong.

[1] *See* now the Indian Railways Act, 1890 (Central Act IX of 1890).

[2] The definition of "Safety Controlling Authority" was omitted byt he Adaptation (Amendment) Order of 1950.

Collector to send the plans and estimates to the landholder concerned, with an order to him to take the measures specified or to show cause why he should not do so.

5. The Collector shall, upon the completion of the plans, estimates and statement mentioned in the last preceding section, send copies thereof to the landholder named in the statement as being in possession of, or having control over, the irrigation-works described therein, together with an order in writing requiring the landholder so named as aforesaid within a reasonable time fixed in the notice to carry out the measures specified in the said plans and estimates, or to appear before the Collector and show cause why he should not carry out the same.

Collector may cancel or modify the order.

6. If the landholder appears before the Collector and satisfies him, after such inquiry as he thinks fit, that he is not the landholder in possession of, or having control over, the works named in the statement, or that other measures than those proposed may, with due regard to the safety of the railway, be adopted for the protection thereof, or that he ought not to bear the whole or any part of the cost which he has been called upon to bear for the purpose of carrying out the proposed measures, the Collector shall cancel or modify the order accordingly.

If the order is not cancelled, Collector to call upon the landholder by notice to execute the measures.

7. If the order is not cancelled by the Collector, he shall by a written notice call upon the landholder so named as aforesaid to carry out, within a reasonable time to be named in the notice, the measures specified in the order as originally issued or modified, as the case may be. The notice shall contain a copy of such order.

Tenants and others interested may make representation to the Collector as to the nature of proposed measures.

8. Pending such an inquiry by the Collector or at any time within thirty days of the date when the copy of the notice is fixed as aforesaid, it shall be lawful for the tenants or other persons concerned to appear before the Collector and make such representations as they may think fit with regard to the nature of the proposed measures.

If landholder fails to execute the measures, the Collector shall report the matter to the Central Government which may direct the execution of measures.

9. In the event of the measures specified in the order mentioned in section 7 not being carried out within the time fixed, the Collector shall report the matter for the orders of the [1][Central Government], [2][which] may direct that the proposed measures be carried out, or pass such other orders as [3][it] may deem fit. A copy of the order of the

---

[1] The words "Safety Controlling Authority" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and for the words so substituted the words "Central Government" were substituted by the Adaptation (Amendment) Order of 1950.

[2] This word was substituted for th word "who" by the Adaptation Order of 1937.

[3] This word was substituted for the word "he" by *ibid.*

[1] [Central Government] shall be sent to the landholder, and shall be published in the Gazette of the district or districts concerned.

After execution of measures, notice to be served on landholder to pay cost of measures.

10. After the execution of the said measures, the Collector shall cause to be served upon the landholder a memorandum showing the total cost incurred in the execution of the same and the sum which, in the opinion of the Collector, the landholder is liable to pay together with a notice requiring him to pay the same within a time to be fixed in such notice.

Procedure in case of emergency.

11. In cases in which, in the opinion of the Collector of any district in which any irrigation-work may be situated, the immediate execution of any measures in respect of such work is necessary for preventing serious danger to life or property, or serious obstruction to public traffic upon any railway, he may order the execution of such measures, and shall without unnecessary delay record a statement showing the grounds of his opinion and the material facts of the case. A copy of the statement shall be served upon the landholder who, according to the Collector's information, is in possession of, or has control over, such work, together with a memorandum showing the nature of the measures executed, the total cost thereof, and the sum which, in the opinion of the Collector the said landholder is liable to pay, and with a notice calling upon him, within a reasonable time to be fixed therein, to pay the same, or to appear before the Collector and show cause why he should not pay the same.

Collector to decide what sum the landholder is liable to pay.

12. If the landholder appears before the Collector and shows cause under section 11, the Collector shall, after such inquiry as he may deem fit, decide what sum, if any, the landholder is liable to pay, and shall cause a notice to be served upon him calling upon him to pay the same within a time to be fixed therein.

Collector may appoint assessors in inquiry regarding landholders' liability.

13. In the inquiry held by the Collector under section 6 or section 12, the Collector may, on the application of the landholder, appoint, for the purpose of ascertaining the liability of the landholder and the extent thereof, not more than five assessors, of whom not less than half shall be nominated by the Collector and the remainder by the landholder ;

may summon such assessors to attend at such place and time as the Collector thinks fit ; and

may fix a time within which they are to submit their opinion.

If landholder neglects or refuses to pay, Collector may file a suit.

14. If any landholder, upon whom a notice shall have been served under section 10, section 11 or section 12, shall neglect or refuse to pay the sum mentioned therein in whole or in part,

[1] The words "Safety Controlling Authority" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and for the words so substituted the words "Central Government" were substituted by the Adaptation (Amendment) Order of 1950.

the Collector may file a suit in the Civil Court for the recovery of the said sum or such part thereof as may remain unpaid.

Court to try the case as provided by the Civil Procedure Code.

15. The Court shall thereupon proceed to try the suit and pass a decree in the manner provided by the Code of Civil Procedure [1] for the hearing of suits :

Central Act XIV of 1882.

Provided that the said landholder shall not in any such suit be held liable in an amount exceeding that which he, in the exercise of due and proper care as a landholder, would have expended on the maintenance of the works mentioned in the order made as aforesaid.

Compensation to landholder for loss or damage caused by protective measures.

16. Any landholder or other person shall be entitled to reasonable compensation for any loss or damage occasioned to him by, or in the course of the execution of, any of the measures taken under section 5 or section 7 or section 9 or section 11. The amount of such compensation shall be fixed by the Collector after such inquiry as he may deem fit.

Collector may appoint assessors in inquiry regarding compensation.

17. For the purposes of this inquiry the Collector may, on the application of the claimant, appoint not more than five assessors, of whom not less than half shall be nominated by the Collector and the remainder by the claimant ;

may summon such assessors to attend at such place and time as the Collector thinks fit ; and

may fix a time within which they are to submit their opinion.

If landholder is dissatisfied with the compensation awarded, he may file a suit.

18. In the event of the Collector and the said landholder or other person being unable to agree as to the amount of such compensation, it shall be lawful for the said landholder or other person to file a suit in the Civil Court for the recovery of such compensation.

Notice how to be served.

19. Every notice given under the provisions of this Act shall, if practicable, be served personally on the person to whom it is addressed ; or, if he cannot be found, the notice may be left at his usual or last known place of abode with some adult member of his family, servant or agent, or may be sent by a registered letter, or may be put upon some conspicuous part of his usual or last known place of abode, and shall thereby be deemed to have been duly presented or served.

Central Government may authorize revenue-officer to exercise powers of Collector.

20. The [2][Central Government] may, by notification published in the [3][State Official Gazette], and in the Gazettte of the district or districts concerned, from time to time, authorized any revenue-officer not below the rank of Deputy Collector to

[1] *See now* the Code of Civil Procedure, 1908 (Central Act V of 1908).

[2] The words " Safety Controlling authority " were substituted for the words " Governor-in-Council " by the Adaptation Order of 1937 and for the words so substituted the words " Central Government " were substituted by the Adaptation (Amendment) Order of 1950.

[3] The words " *Provincial Official Gazette* " were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950

exercise any of the powers of a Collector under this Act, and may in like manner at any time withdraw or modify such authority.

MADRAS ACT No. I OF 1888. [1]

[THE [2](MADRAS) LOCAL AUTHORITIES' LOAN ACT, 1888.]

[26*th January* 1888 ; 20*th April* 1888.]

An Act to empower Local Authorities to guarantee interest on, or to create a Fund for Repayment of, Capital expended on certain purposes.

Preamble. WHEREAS it is expedient to empower local authorities to charge their funds with the payment of interest on Capital applied to the carrying out of works to the execution of which the funds of the local authority can legally be applied ; It is hereby enacted as follows :—

Short title and extent. **1.** This Act shall be called the [2][Madras] Local Authorities' Loan Act, 1888. It extends to the whole of the Madras Presidency [3] * * * * * * * * *

Local authority. **2.** In this Act "local authority" means any district or municipal board constituted under the provisions of Acts IV [4] and V [4] of 1884 (Madras) or other such law for the time being in force ; and

Funds. "funds," used with reference to any local authority, means any district or municipal fund to the control or management of which such authority is entitled, and any rates, taxes or tolls leviable by, and any property vested in, such authority.

Power of local authority to guarantee payment of interest on, or to create a fund for re-payment of, capital expended on any work to which the funds may be applied. **3.** The [5] [State Government] [6] [* * * * * * * *], may authorize any local authority, either severally or in conjunction with any other local authority, to charge its funds or any part thereof by way of guarantee for the payment of interest on, or by the creation of a fund for the re-payment of, moneys expended or to be expended on any work or for any of the purposes to which such funds might be by law applied.

---

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 15th November 1887, p. 1 ; for the Report of the Select Committee, *see ibid*, dated 3rd January 1888, p. 1 ; for Proceedings in Council, *see ibid*, dated 29th November 1887, p. 4 ; and *ibid*, dated 24th January 1888, p. 1.

[2] This word was inserted by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[3] The words " and shall come into force upon the passing thereof," were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901) —Third Schedule, Part III.

[4] *See now* Madras Acts V and XIV of 1920.

[5] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[6] The words " with the previous sanction of the Governor-General in Council " were omitted by the Devolution Act, 1920 (Central Act XXXVIII of 1920—First Schedule, Part III).